

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

George Cleveland,)	Civil Action No. 8:09-626-HMH-WMC
)	
Plaintiff,)	
)	<u>REPORT OF MAGISTRATE JUDGE</u>
vs.)	
)	
City of Seneca, et al.,)	
)	
Defendants.)	
_____)	

This matter is before the court on the plaintiff's motion for default judgment. In his amended complaint, the plaintiff, who is proceeding *pro se*, alleges that on March 11, 2008, while the City of Seneca was conducting its "regular city wide elections," he went to one of the voting sites to hand out "fliers," but was asked to leave by the defendants. He claims the defendants' actions violated his federal constitutional rights as well as some state laws.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A) and Local Civil Rule 73.02)(B)(2)(e) D.S.C., all pretrial matters in cases involving *pro se* litigants are referred to a United States Magistrate Judge for consideration.

On July 16, 2009, the plaintiff filed a motion to amend his complaint. That motion was granted by this court on August 7, 2009. In the order, this court directed the Clerk of Court to file the plaintiff's proposed amended complaint, which was done on August 10, 2009. The defendants filed their answer to the amended complaint on August 19, 2009. The defendants served their answer to the amended complaint on the plaintiff by United States Mail on August 19, 2009 (def. resp. to m. for default, ex. D).

The plaintiff states in his motion that he filed his amended complaint on July 16, 2009. The plaintiff has confused his amended complaint with his motion to amend. The actual amended complaint was not filed – and could not be filed – until after this court granted the motion to amend. In cases like this one where service has not been waived under Federal Rule of Civil Procedure 4(d), a defendant must serve an answer within 20 days after being served with a complaint. Fed. R. Civ. P. 12(a)(1)(A). In this case, as set forth above, the amended complaint was filed on August 10th, and the defendants filed their answer nine days later. The defendants timely answered the plaintiff's amended complaint. Accordingly, the plaintiff's motion for default judgment (doc. 36) is meritless and should be denied.

s/William M. Catoe
United States Magistrate Judge

October 2, 2009

Greenville, South Carolina